

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kevin J. Shea,

Plaintiff,

v.

Case No. 2:18-cv-555

Commissioner of
Social Security,

Defendant.

ORDER

This matter is before the court for consideration of the February 19, 2019, report and recommendation of the United States magistrate judge to whom this case was referred pursuant to 28 U.S.C. §636(b). The magistrate judge recommended that this case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b) for want of prosecution. The magistrate judge noted that plaintiff failed to timely file a statement of errors by December 13, 2018, and failed to respond to the court's show cause orders of December 19, 2018, and February 11, 2019.

The report and recommendation specifically advised the parties that failure to object to the report and recommendation within fourteen days of the report would "result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the judgment of the District Court." Doc. 18, p. 4. No objections have been filed, and the time for filing such objections has expired.

On March 7, 2019, plaintiff's counsel filed a motion for leave to withdraw, supported by an affidavit. Counsel stated that both he and two experienced attorneys reviewed the administrative record

and concluded that there were no good grounds for an appeal. Counsel further stated that in November and December, he made repeated attempts to contact plaintiff, both directly and through the attorney who represented plaintiff at the administrative level, but these efforts were unsuccessful. Counsel indicates that because he is now employed by the Legal Aid Society of Columbus, he cannot continue to provide services to plaintiff without first determining whether plaintiff meets the qualifications for representation. To date, plaintiff has failed to provide him with the necessary information.

Having considered the record, including the information provided by plaintiff's counsel, the court adopts the report and recommendation (Doc. 18) in part. The court agrees with the recommendations of the magistrate judge, with the exception that the court concludes that this case should be dismissed without prejudice. The motion of counsel for leave to withdraw (Doc. 19) is granted. This action is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for want of prosecution.

Date: March 11, 2019

s/James L. Graham
James L. Graham
United States District Judge